



## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### Petition for Modification of Application of an Existing Mandatory Safety Standard

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This notice includes the summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

**DATES:** All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by Docket No. MSHA-2022-0007 by any of the following methods:

1. Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments for MSHA-2022-0007.
2. Fax: 202-693-9441.
3. Email: [petitioncomments@dol.gov](mailto:petitioncomments@dol.gov).
4. Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations, and

Variances, 201 12<sup>th</sup> Street South, Suite 4E401, Arlington, Virginia 22202-5452.

Attention: S. Aromie Noe, Acting Director, Office of Standards, Regulations, and Variances.

Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401.

Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202-693-9455 to make an appointment, in keeping with the Department of Labor's COVID-19 policy. Special health precautions may be required.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

**FOR FURTHER INFORMATION CONTACT:** S. Aromie Noe, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), [petitionsformodification@dol.gov](mailto:petitionsformodification@dol.gov) (email), or 202-693-9441 (facsimile). [These are not toll-free numbers.]

**SUPPLEMENTARY INFORMATION:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

## **I. Background**

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor (Secretary) determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.
3. In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

## **II. Petition for Modification**

Docket Number: M-2022-001-M

Petitioner: American Mine Services, LLC, 11808 Highway 93, Boulder, CO 80303

Mine: Joliet Mine, MSHA ID No. 11-03153, located in Will County, Illinois.

Regulation Affected: 30 CFR 49.6(1)(a), Equipment and Maintenance Requirements.

Modification Request: The petitioner requests a modification of the existing standard, 30 CFR 49.6(1)(a), as it relates to equipment and maintenance requirements. The request for modification applies to the application of the standard to allow American Mine Services, LLC (AMS) to continue to provide a rescue station at the mine with only six self-contained breathing apparatuses instead of the twelve prescribed in the standard and continue the contract with the Lafarge Mine Rescue Team that has twelve apparatuses.

The petitioner states:

(a) The primary mine rescue team consists of AMS, 150 Union members, and Bluff City personnel, and the Lafarge Aggregates Illinois, Inc. team serves as the backup. The mine currently has a mine rescue station with 6 readily available self-contained apparatuses. The onsite mine rescue station contains all other required equipment and meets all other requirements of 30 CFR 49.6. The Joliet mine has and will continue to maintain a written contract with Lafarge Aggregates Illinois to serve as the second rescue team for the mine.

(b) Lafarge Aggregates Illinois has 12 readily available self-contained apparatuses at the mine rescue station where that rescue team is stationed.

(c) The availability of 18 self-contained breathing apparatuses with the onsite mine rescue team and station will at all times guarantee no less than the same measure of protection for miners afforded by the standard. It is due to these circumstances that AMS requests approval for modification to CFR 49.6(a)(1) and continue to operate in the same manner that has been present since the start of the contract with Bluff City in 2020.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the applicable standard

Song-ae Aromie Noe,

Acting Director,

Office of Standards, Regulations, and Variances.